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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON,  
AT SPOKANE

CITIES INSURANCE ASSOCIATION  
OF WASHINGTON, a Washington  
non-profit corporation,

**Cause No. 2:16-cv-00134-TOR**

## **STIPULATED PROTECTIVE ORDER**

**ASSOCIATED ELECTRIC & GAS  
INSURANCE SERVICES LIMITED, a  
Bermuda corporation**

**Defendant.**

## 1. INTRODUCTION

This matter will involve the production or disclosure of confidential and privileged defense cost invoicing or communications from the underlying lawsuit. In addition, there may be production or disclosure of other documents that contain confidential, proprietary or privileged information for which special protection

1 may be warranted. Accordingly, the parties hereby stipulate to and petition the  
2 Court to enter the following Stipulated Protective Order.

3 **2. "CONFIDENTIAL" MATERIAL.**

4 "Confidential" material shall include the documents so designated as set  
5 forth in Section 5 below.

6 **3. SCOPE.**

7 The protections conferred by this agreement cover not only confidential  
8 material (as defined above), but also (1) any information copied or extracted from  
9 confidential material; (2) all copies, excerpts, summaries, or compilations of  
10 confidential material; and (3) any testimony, conversations, or presentations by  
11 parties or their counsel that might reveal confidential material. However, the  
12 protections conferred by this agreement do not cover information that is in the  
13 public domain either prior to execution of this agreement, or after the execution  
14 of this agreement if the information was released into the public domain in some  
15 manner unrelated to this litigation. The protections conferred by this agreement  
16 do not cover information that becomes part of the public domain during trial,  
17 appeal, or any other disclosure into the public domain permitted by the Court.

18 **4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL.**

19 4.1. Basic Principles. A receiving party may use confidential material  
20 that is disclosed or produced by another party or by a non-party in connection

1 with this case only for prosecuting, defending, or attempting to settle this  
2 litigation. Confidential material may be disclosed only to the categories of  
3 persons and under the conditions described in this agreement. Confidential  
4 material must be stored and maintained by a receiving party at a location and in a  
5 secure manner that reasonably ensures that access is limited to the persons  
6 authorized under this agreement.

8           4.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless  
9 otherwise ordered by the court or permitted in writing by the designating party, a  
10 receiving party may disclose any confidential material only to:

11           (a) the receiving party’s counsel of record in this action, as well  
12 as employees of counsel to whom it is reasonably necessary to disclose the  
13 information for this litigation, including other attorneys in the same law firm of  
14 counsel of record;

16           (b) the officers, directors, and employees (including in-house  
17 counsel) of the receiving party to whom disclosure is reasonably necessary for  
18 this litigation, unless the parties agree that a particular document or material  
19 produced is for Attorney’s Eyes Only and is so designated;

21           (c) experts and consultants to whom disclosure is reasonably  
22 necessary for this litigation and who have signed the “Acknowledgment and  
23 Agreement to Be Bound” (Exhibit A);

1                             (d) auditors, regulators, and reinsurers of the receiving party, as  
2 well as their employees to whom it is reasonably necessary to disclose the  
3 information for this litigation;

4                             (e) the court, court personnel, and court reporters and their staff;  
5                             (f) copy or imaging services retained by counsel to assist in the  
6 duplication of confidential material, provided that counsel for the party retaining  
7 the copy or imaging service instructs the service not to disclose any confidential  
8 material to third parties and to promptly return all originals and copies of any  
9 confidential material;

10                           (g) during their depositions, non-party witnesses in the action to  
11 whom disclosure is reasonably necessary and who have signed the  
12 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise  
13 agreed by the designating party or ordered by the court. Pages of transcribed  
14 deposition testimony or exhibits to depositions that reveal confidential material  
15 must be separately bound by the court reporter and may not be disclosed to  
16 anyone except as permitted under this agreement; and

17                           (h) the author or recipient of a document containing the  
18 information or a custodian or other person who otherwise possessed or knew the  
19 information.

1       4.3. Filing Confidential Material. Before filing confidential material or  
2 discussing or referencing such material in court filings, the filing party shall  
3 confer with the designating party to determine whether the designating party will  
4 remove the confidential designation, whether the document can be redacted, or  
5 whether a motion to seal or stipulation and proposed order is warranted. The  
6 Scheduling Order sets forth standards that will be applied when a party seeks  
7 permission from the court to file material under seal. (ECF No. 19 at 4:15 – 5:2)

8

9       **5. DESIGNATING PROTECTED MATERIAL.**

10      5.1. Manner and Timing of Designations. Disclosure or discovery  
11 material that qualifies for protection under this agreement must be clearly so  
12 designated before or when the material is disclosed or produced.

13           (a) Information in documentary form (e.g., paper or electronic  
14 documents and deposition exhibits, but excluding transcripts of depositions or  
15 other pretrial or trial proceedings): the designating party must affix the word  
16 “CONFIDENTIAL” to the pages or documents that contains confidential  
17 material.

18           (b) Testimony given in deposition or in other pretrial or trial  
19 proceedings: the parties must identify on the record, during the deposition,  
20 hearing, or other proceeding, all protected testimony, without prejudice to their  
21 right to so designate other testimony after reviewing the transcript. Any party or

non-party may, within twenty-eight days after receiving a deposition transcript, designate portions of the transcript, or exhibits thereto, as confidential.

(c) Other tangible items: the producing party must affix in a prominent place on the exterior of the container or containers in which the information or item is stored the word "CONFIDENTIAL." If only a portion or portions of the information or item warrant protection, the producing party, to the extent practicable, shall identify the protected portion(s).

5.2. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the designating party's right to secure protection under this agreement for such material. Upon timely correction of a designation, the receiving party must make reasonable efforts to ensure that the material is treated in accordance with the provisions of this agreement.

5.3. Mistaken Designation. If it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection, the designating party shall promptly notify all other parties that it is withdrawing the mistaken designation.

1       **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS.**

2           6.1. Any party may challenge in court the designation of any particular  
3 document or tangible thing as “Confidential” or the types of documents and  
4 tangible things listed above as “Confidential.”

5           6.2. **Timing of Challenges.** Any party may challenge a designation of  
6 confidentiality at any time. Unless a prompt challenge to a designating party’s  
7 confidentiality designation is necessary to avoid foreseeable, substantial  
8 unfairness, unnecessary economic burdens, or a significant disruption or delay of  
9 the litigation, a party does not waive its right to challenge a confidentiality  
10 designation by electing not to mount a challenge promptly after the original  
11 designation is disclosed.

12           6.3. **Meet and Confer.** The parties must make every attempt to resolve  
13 any dispute regarding confidential designations without court involvement. A  
14 good faith effort to confer requires a face-to-face meeting or a telephone  
15 conference.

16           6.4. **Judicial Intervention.** If the parties cannot resolve a challenge  
17 without court intervention, the parties may contact chambers to schedule a  
18 telephonic conference to obtain an expedited ruling per the Scheduling Order.  
19 (ECF No. 19 at 5:3-6) As directed by the court following such telephonic  
20 conference, the designating party may file and serve a motion to retain

1 confidentiality. All parties shall continue to maintain the material in question as  
2 confidential until the court rules on the challenge.

3 **7. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
4 **PRODUCED IN OTHER LITIGATION.**

5 If a party is served with a subpoena or a court order issued in other  
6 litigation that compels disclosure of any information or items designated in this  
7 action as "CONFIDENTIAL," that party must:

8 (a) promptly notify the designating party in writing and include a  
9 copy of the subpoena or court order;

11 (b) promptly notify in writing the party who caused the subpoena  
12 or order to issue in the other litigation that some or all of the material covered by  
13 the subpoena or order is subject to this agreement. Such notification shall include  
14 a copy of this agreement; and

16 (c) cooperate with respect to all reasonable procedures sought to  
17 be pursued by the designating party whose confidential material may be affected.

18 **8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL.**

19 If a receiving party learns that, by inadvertence or otherwise, it has  
20 disclosed confidential material to any person or in any circumstance not  
21 authorized under this agreement, the receiving party must immediately (a) notify  
22 in writing the designating party of the unauthorized disclosures, (b) use its best  
23

1 efforts to retrieve all unauthorized copies of the protected material, (c) inform the  
2 person or persons to whom unauthorized disclosures were made of all the terms  
3 of this agreement, and (d) request that such person or persons execute the  
4 “Acknowledgment and Agreement to Be Bound” that is attached hereto as  
5 Exhibit A.

6

7 **9. NON-TERMINATION AND RETURN OF DOCUMENTS.**

8 If requested in writing by any party, within 60 days after the termination of  
9 this action, including all appeals, each receiving party must return or destroy all  
10 confidential material to the producing party, including all copies, extracts and  
11 summaries thereof. Counsel for each party must confirm in writing that the  
12 applicable documents have been returned or destroyed before or on the 60 day  
13 deadline identified above.

14

15 Notwithstanding this provision, counsel are entitled to retain one archival  
16 copy of all documents filed with the court, trial, deposition, and hearing  
17 transcripts, correspondence, deposition and trial exhibits, expert reports, attorney  
18 work product, and consultant and expert work product, even if such materials  
19 contain confidential material.

20

21 The confidentiality obligations imposed by this agreement shall remain in  
22 effect until a designating party agrees otherwise in writing or a court orders  
23 otherwise.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED this 13<sup>th</sup> day of September, 2016.

3 SOHA & LANG, P.S.

4 By: s/ Geoffrey Bedell

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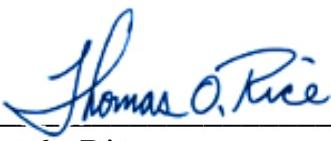
11  
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13 HINSHAW & CULBERTSON LLP

14 By: s/ Larry M. Golub (as authorized by  
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18 Attorneys for Defendant

19 PURSUANT TO STIPULATION, IT IS SO ORDERED.

20 Dated: October 13, 2016

21  
22   
23 Thomas O. Rice  
Chief United States District Judge

1 EXHIBIT A  
2  
3

4 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND  
5  
6

7 I, \_\_\_\_\_ [print or type full name], of  
8 \_\_\_\_\_ [print or type  
9 full address], declare under penalty of perjury that I have read in its entirety and  
10 understand the Stipulated Protective Order that was issued by the United States  
11 District Court for the Eastern District of Washington on in the case of *Cities*  
12 *Insurance Association of Washington v. Associated Electric & Gas Insurance*  
13 *Services Limited*, Case No. 2:16-cv-00134-TOR.

14 I agree to comply with and to be bound by all the terms of this Stipulated  
15 Protective Order and I understand and acknowledge that failure to so comply  
16 could expose me to sanctions and punishment in the nature of contempt. I  
17 solemnly promise that I will not disclose in any manner any information or item  
18 that is subject to this Stipulated Protective Order to any person or entity except in  
19 strict compliance with the provisions of this Order.

20 I further agree to submit to the jurisdiction of the United States District  
21 Court for the Western District of Washington for the purpose of enforcing the  
22 terms of this Stipulated Protective Order, even if such enforcement proceedings  
23 occur after termination of this action.

1 Date: \_\_\_\_\_

2 City and State where sworn and signed: \_\_\_\_\_  
3 \_\_\_\_\_

4 Printed name: \_\_\_\_\_

5 Signature: \_\_\_\_\_  
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